

## Message Text

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ORIGIN OPIC-06

INFO OCT-01 NEA-10 ISO-00 EB-08 TRSE-00 L-03 H-01 SSO-00  
NSCE-00 USIE-00 INRE-00 SP-02 AID-05 NSC-05 CIEP-01  
SS-15 STR-04 OMB-01 CEA-01 CIAE-00 COME-00 FRB-03  
INR-07 NSAE-00 XMB-02 /075 R

DRAFTED BY OPIC/GC :REBROWN  
APPROVED BY EB/IFD/OIA:RJSMITH  
EB/IFD/OIA:DHSTEBBING  
NEA/PAB:DARCHARD  
TREASURY:RBANQUE (INFO)  
-----102312Z 131010 /64  
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FM SECSTATE WASHDC  
TO AMEMBASSY DACCA IMMEDIATE

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E.O. 11652: N/A

TAGS: EINV

SUBJECT: BELBAGCO

REF: (A) 76 DACCA 5831; (B) DACCA 0289; (C) DACCA 0571;  
(D) DACCA 0398; (E) DACCA 0525

1. OPIC STILL DOES NOT FULLY UNDERSTAND THE CONDITIONS  
SET FORTH IN INDUSTRIES SECRETARY HAQ'S NOVEMBER 10, 1976  
LETTER (REFTEL A PAR. 2) NOTWITHSTANDING THE QUOTE CLARI-  
FICATIONS END QUOTE CONTAINED IN THE JANUARY 18, 1977  
LETTER OF JOINT SECRETARY ZAINUL ABEDIN (REFTEL B PAR. 1).  
SPECIFICALLY:

(A) IT REMAINS UNCLEAR TO OPIC WHY THE BDG IS CON-  
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CERNED ABOUT FUTURE CLAIMS AND NEEDS AN INDEMNITY AGREE-  
MENT FOR PROTECTION AGAINST SUCH CLAIMS. AS OPIC HAS  
PREVIOUSLY COMMENTED, IT WOULD SEEM THAT THE EXECUTION OF  
A SETTLEMENT AGREEMENT IN CONNECTION WITH A PAYMENT OF THE  
OPIC-BELBAGCO CLAIM, INCLUDING MUTU L RELEASES BY THE  
PARTIES TO SUCH AGREEMENT, SHOULD ADEQUATELY FORECLOSE ANY  
FUTURE CLAIMS BY BFC, BELBAGCO, OR OPIC AGAINST THE BDG.  
IF, INSTEAD, THE BDG IS APPREHENSIVE ABOUT THE EXTREMELY  
REMOTE POSSIBILITY OF A CLAIM BEING ASSERTED BY THE

GOVERNMENT OF PAKISTAN, INDEPENDENTLY OF SUCH A SETTLEMENT AGREEMENT, OPIC IS PREPARED TO DEMONSTRATE THAT A SETTLEMENT OF THE CLAIM BEFORE IT IS ESPOUSED BY PAKISTAN IS AN EFFECTIVE DEFENSE UNDER GENERALLY ACCEPTED PRINCIPLES OF INTERNATIONAL LAW.

(B) APART FROM THE REASONS UNDERLYING THE BDG'S DEMAND FOR AN INDEMNITY AGREEMENT, OPIC DOES NOT UNDERSTAND THE INTENDED EFFECT OF REQUIRING THE U.S. EMBASSY TO COUNTERSIGN A DECLARATION BY BELBAGCO.

(C) FINALLY, OPIC WOULD INTERPRET THE LITERAL LANGUAGE OF PARAGRAPH 3 OF ABEDIN'S JANUARY 18, 1977 LETTER AS ACKNOWLEDGING THE OBLIGATION ON THE PART OF THE BDG TO PAY COMPENSATION FOR THE OPIC-BELBAGCO CLAIM IN UNITED STATES DOLLARS IN THAT THE USG OBVIOUSLY WOULD SPEND U.S. DOLLARS IN BANGLADESH EQUAL TO ANY AMOUNT RECEIVED IN SETTLEMENT FOR BFC IN THE NORMAL COURSE OF EVENTS. WHY, THEN, SHOULD THE BDG WANT TO OBLIGATE THE USG TO MAKE SUCH EXPENDITURES? THE USG WOULD NOT BE WILLING TO MAKE A FORMAL LINK BETWEEN COMPENSATION DUE U.S. INVESTORS AND USG EXPENDITURES IN THE HOST COUNTRY.

2. OPIC IS ALSO RELUCTANT, AS A MATTER OF PRINCIPLE, TO ACKNOWLEDGE ANY RIGHT OF THE BDG TO SET PRE-CONDITIONS TO AN OBLIGATION, UNCONDITIONALLY AGREED TO BY THE BDG IN LIMITED OFFICIAL USE  
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THE JANUARY 1975 EXCHANGE OF NOTES, TO NEGOTIATE ANY DIFFERENCES BETWEEN THE TWO GOVERNMENTS CONCERNING THE AMOUNT OF COMPENSATION FOR THE NATIONALIZATION OF BFC. EVEN IF OPIC WERE TO UNDERSTAND AND BE CAPABLE OF SATISFYING HAQ'S CONDITIONS, TO ACCEDE TO THEIR LEGITIMACY COULD SERIOUSLY IMPAIR THE EFFECTIVENESS OF BILATERAL AGREEMENTS THAT OPIC HAS EXECUTED WITH THE BDG AND OTHER COUNTRIES WHERE OPIC PROGRAMS ARE IN FORCE BY RECOGNIZING THE RIGHT OF A HOST COUNTRY TO IMPOSE CONDITIONS NOT CONTEMPLATED BY SUCH AGREEMENTS.

3. IT IS ALSO UNCLEAR TO OPIC WHAT THE BDG HAS IN MIND BY THE SUGGESTION THAT BFC MAY SOON BE "DISINVESTED," AS REPORTED IN REFTEL C, PAR. 2(A). IF THE BDG PROPOSES AN ARRANGEMENT WHEREBY OPIC AND BELBAGCO WOULD RECEIVE ANYTHING LESS THAN FULL COMPENSATION FOR THE NATIONALIZATION OF BFC, MEASURED BY ACCEPTABLE STANDARDS OF INTERNATIONAL LAW, THE PROPOSAL WOULD BE TOTALLY UNACCEPTABLE IN PRINCIPLE. THIS POINT SHOULD BE MADE CLEAR

AT THE TIME OF THE DELIVERY OF THE LETTER TO SECRETARY HAQ, THE TEXT OF WHICH IS SET FORTH IN PAR. 7 BELOW.

4. FYI NEITHER OPIC NOR BELBAGCO HAVE ANY INTEREST IN TAKING POSSESSION OF BFC.

5. OPIC WOULD OBSERVE THAT THERE IS NO BASIS FOR THE BDG'S FEARS THAT IT WOULD BE "KNUCKLING UNDER TO U.S. PRESSURE" JUST BECAUSE IT PAYS FAIR COMPENSATION FOR THE NATIONALIZATION OF PROPERTY INSURED BY OPIC PURSUANT TO AN UNCONDITIONAL AGREEMENT TO DO SO.

6. BECAUSE THE CLARIFICATIONS REQUESTED BEFORE BY OPIC DID LITTLE TO ELUCIDATE THE BDG'S POSITION BUT RATHER RESULTED IN A PROTRACTED DELAY IN WHAT WAS PERCEIVED TO BE SOME PROGRESS IN REACHING A SETTLEMENT, OPIC REQUESTS LIMITED OFFICIAL USE  
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THAT THE EMBASSY NOT REPEAT NOT ASK THE BDG FOR ADDITIONAL CLARIFICATIONS OF HAQ'S NOVEMBER 10, 1976 LETTER AT THIS TIME

7. OPIC PROPOSES THE FOLLOWING RESPONSE TO INDUSTRIES SECRETARY HAQ'S NOVEMBER 10, 1976 LETTER FOR SIGNATURE BY RLA ROBINSON ON BEHALF OF OPIC AND FOR DELIVERY ASAP. THE EMBASSY'S COMMENTS ARE WELCOMED. BEGIN TEXT.

QUOTE REFERENCE IS MADE TO YOUR LETTER OF NOVEMBER 10, 1976 TO AMBASSADOR MASTERS CONCERNING THE JOINT CLAIM FOR COMPENSATION FILED ON OCTOBER 26, 1976 BY BELBAGCO, INC. AND OVERSEAS PRIVATE INVESTMENT CORPORATION (QUOTE OPIC END QUOTE) WITH REGARD TO THE NATIONALIZATION OF BANGLADESH FABRIC COMPANY LTD. (QUOTE BFC END QUOTE).

OPIC IS PLEASED THAT ANY QUESTIONS THAT PREVIOUSLY MAY HAVE EXISTED REGARDING THE OBLIGATION OF THE GOVERNMENT OF BANGLADESH TO PAY COMPENSATION FOR BFC HAVE NOW BEEN RESOLVED IN PRINCIPLE AND THAT YOUR GOVERNMENT IS PREPARED TO ADDRESS THE ACTUAL AMOUNT OF COMPENSATION DUE FOR BFC IN ACCORDANCE WITH THE JANUARY 17-20, 1975 EXCHANGE OF NOTES BETWEEN YOUR GOVERNMENT AND OPIC.

HOWEVER, OPIC IS CONCERNED BY THE PROSPECT OF ADDITIONAL DELAYS IN THE COMMENCEMENT OF SUBSTANTIVE DISCUSSIONS REGARDING THE AMOUNT TO BE PAID IN SETTLEMENT OF THE OPIC-BELBAGCO CLAIM RESULTING FROM THE SUGGESTION IN YOUR NOVEMBER 10, 1976 LETTER THAT THESE DISCUSSIONS

SHOULD AWAIT RESOLUTION OF CERTAIN PRELIMINARY ISSUES BEYOND THE SCOPE OF THE JANUARY 1975 EXCHANGE OF NOTES. OPIC IS ALSO CONCERNED THAT SUCH DISCUSSIONS MAY BE COMPLICATED IF, AS RECENTLY SUGGESTED BY YOUR GOVERNMENT, BFC IS INCLUDED IN A PLAN OF DISINVESTMENT WHICH DOES NOT INSURE THE PAYMENT TO OPIC AND BELBAGCO OF ADEQUATE COMPENSATION FOR THE NATIONALIZATION OF BFC.

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IN AN EFFORT TO EXPEDITE A PROMPT SETTLEMENT OF THIS  
CLAIM OPIC MAKES THE FOLLOWING PROPOSALS:

(1) YOUR GOVERNMENT UNDERTAKE TO FURNISH OPIC WITH  
WRITTEN ASSURANCES OF ITS AGREEMENT IN PRINCIPLE TO PAY  
THE AMOUNT OF COMPENSATION CLAIMED BY OPIC AND BELBAGCO  
FOR THE NATIONALIZATION OF BFC. IF THERE IS ANY REASON  
WHY YOUR GOVERNMENT CANNOT FURNISH ASSURANCE WITH RESPECT  
TO THIS AMOUNT OF COMPENSATION, A STATEMENT EXPLAINING THE  
AREAS OF DISAGREEMENT AND THE PRECISE GROUNDS FOR SUCH  
DISAGREEMENT WOULD BE PREPARED AND DELIVERED TO OPIC.  
IN THIS CONNECTION THERE IS ENCLOSED HERewith THE BALANCE  
SHEETS OF BFC, WHICH WERE TRANSLATED AT THE RATE OF  
PRS 4.76:US\$1.00 FOR PURPOSES OF THE OPIC-BELBAGCO CLAIM,  
TO SUPPLEMENT THE ANALYSIS WHICH YOUR GOVERNMENT HAS  
ALREADY MADE OF THE FINANCIAL BOOKS AND RECORDS OF BFC.

(2) FOR ITS PART, OPIC WILL UNDERTAKE TO SUBMIT A  
DRAFT SETTLEMENT AGREEMENT ADDRESSING THE PROPOSED TERMS  
OF SETTLEMENT OTHER THAN THE AMOUNT OF COMPENSATION TO BE  
PAID FOR BFC FOR CONSIDERATION BY YOUR GOVERNMENT BY MARCH  
11, 1977 AND PROPOSE AT YOUR GOVERNMENT RESPOND AS  
INDICATED IN PAR. 1 ABOVE BY THE SAME DATE.

(3) THEREAFTER, UPON DESIGNATION BY YOUR GOVERN-  
MENT OF AN OFFICIAL POSSESSING THE RESPONSIBILITY AND  
AUTHORITY FOR CONCLUDING A SETTLEMENT, A REPRESENTATIVE  
OF OPIC WILL MAKE IMMEDIATE ARRANGEMENTS TO VISIT  
BANGLADESH FOR THE PURPOSES OF RESOLVING ANY OUTSTAND-  
ING AREAS OF DISAGREEMENT AND CONCLUDING A SETTLEMENT OF  
THE CLAIM.

OPIC IS CONFIDENT THAT THE CONCERNS OF THE GOVERNMENT  
OF BANGLADESH RELATING TO THE SETTLEMENT OF THE OPIC-  
BELBAGCO CLAIM, AS EXPRESSED IN YOUR NOVEMBER 10, 1976,  
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LETTER WILL BE SATISFACTORILY ADDRESSED IN THE COURSE OF  
DISCUSSIONS UNDERTAKEN PURSUANT TO THE FORMAT OUTLINED  
ABOVE AND TRUSTS THAT YOUR GOVERNMENT WILL EVIDENCE ITS

STATED DESIRE TO DISPOSE OF THIS LONG OUTSTANDING MATTER  
BY PROMPTLY COMMUNICATING ITS AGREEMENT WITH THIS FORMAT.  
END QUOTE. END TEXT.

8. THE IMPORTANCE AND SERIOUSNESS OF OPIC'S PROPOSAL

WOULD BE UNDERScored IF THE AMBASSADOR WOULD PERSONALLY DELIVER THIS LETTER TO SECRETARY HAQ REQUESTING THAT THE MATTER BE GIVEN IMMEDIATE AND CAREFUL ATTENTION. IN DOING SO, THE AMBASSADOR MIGHT DRAW UPON THE COMMENTS CONTAINED IN PAR. ONE THROUGH FIVE OF THIS CABLE. THE IMPORTANCE OF RESPONDING TO OPIC'S PROPOSAL WITHIN THE TIME FRAME SUGGESTED IN THE LETTER OF OPIC TO SECRETARY HAQ MIGHT ALSO BE STRESSED. FINALLY THE AMBASSADOR MIGHT POINT OUT ONCE AGAIN THAT OPIC IS IN A POSITION TO PLAY A CONSTRUCTIVE ROLE IN ATTRACTING U.S. INVESTMENT TO BANGLADESH THROUGH IMPLEMENTATION OF ITS VARIOUS PROGRAMS BUT IS UNABLE TO DO SO AS MATTERS PRESENTLY STAND.

9. OPIC HAS STATED ON A NUMBER OF OCCASIONS THAT ALL OF THE STOCK OF BFC WAS BENEFICIALLY OWNED BY BELBAGCO. WITHOUT ACKNOWLEDGING THAT BELBAGCO'S (AND NOW OPIC'S) RIGHT TO COMPENSATION WOULD IN ANY WAY BE AFFECTED IF THIS WERE NOT THE CASE, OPIC CONSIDERS IT DESIRABLE TO REMOVE ANY UNCERTAINTY ABOUT THE STATUS OF ITS CLAIM IN THIS REGARD, AND FOR THIS REASON HAS POUCHED TO THE EMBASSY THE ORIGINALS OF THE TRANSFER DEEDS AND DECLARATIONS OF TRUST RELATING TO THE TWO QUALIFYING SHARES OF THE STOCK OF BFC FORMERLY HELD BY MESSRS. GALLAHER AND ZAIDI. THESE DOCUMENTS SHOULD BE FILED WITH THE BDG TO SUPPLEMENT AND CLARIFY THE OPIC-BELBAGCO CLAIM, BUT NOT, REPEAT NOT TO COMPLY WITH ANY CONDITION RELATING TO THE WILLINGNESS OF THE BDG TO INITIATE NEGOTIATIONS TO SETTLE THE CLAIM.

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10. OPIC HAS ALSO POUCHED DUPLICATE COPIES OF THE BALANCE SHEETS OF BFC AS OF JUNE 30 AND DECEMBER 15, 1971 FOR ENCLOSURE WITH THE LETTER TO THE BDG SUGGESTED IN PAR. 7 ABOVE.

11. IS THE EMBASSY AWARE OF ANY PAYMENTS OF COMPENSATION BY THE BDG OR ANY CONCLUDED AGREEMENTS TO PAY COMPENSATION FOR OTHER CLAIMS AGAINST THE BDG FOR NATIONALIZED PROPERTY? IF SO, THE DETAILS OF ANY SUCH SETTLEMENTS WOULD BE APPRECIATED BY OPIC.

12. OPIC WILL RESPOND TO REFTELS D AND E IN A SEPTTEL.  
VANCE

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## Message Attributes

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**Capture Date:** 22-Sep-1999 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** AGREEMENTS, CLAIMS, COMPENSATION  
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**Decaption Date:** 01-Jan-1960 12:00:00 am  
**Decaption Note:**  
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**Disposition Approved on Date:**  
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**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
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**Original Classification:** LIMITED OFFICIAL USE  
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**TAGS:** EINV, BG, BELBAGCO INC  
**To:** DACCA  
**Type:** TE  
**vdkgvwkey:** odb://SAS/SAS.dbo.SAS\_Docs/194d1fbf-c288-dd11-92da-001cc4696bcc  
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